

Calendar No. 206

108TH CONGRESS
1ST SESSION

S. 1076

[Report No. 108–98]

To authorize construction of an education center at or near the Vietnam
Veterans Memorial.

IN THE SENATE OF THE UNITED STATES

MAY 19, 2003

Mr. HAGEL (for himself, Mr. MCCAIN, Mr. KERRY, Mr. WARNER, Mr. DASCHLE, Mrs. CLINTON, Mr. NELSON of Florida, Mr. DURBIN, Mr. BUNNING, Mr. LUGAR, Mr. DAYTON, Mr. MILLER, Mr. VOINOVICH, and Mr. STEVENS) introduced the following bill; which was read twice and referred to the Committee on Energy and Natural Resources

JULY 11, 2003

Reported by Mr. DOMENICI, with an amendment

[Strike out all after the enacting clause and insert the part printed in *italie*]

A BILL

To authorize construction of an education center at or near
the Vietnam Veterans Memorial.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Vietnam Veterans Me-
3 morial Education Center Act”.

4 **SEC. 2. VIETNAM VETERANS MEMORIAL EDUCATION CEN-
5 TER.**

6 Public Law 96–297 (16 U.S.C. 431 note) is amended
7 by adding at the end the following:

8 **“SEC. 6. EDUCATION CENTER.**

9 “(a) **AUTHORIZATION.**—(1) The Vietnam Veterans
10 Memorial Fund, Inc., is authorized to construct an edu-
11 cation center at or near the Vietnam Veterans Memorial
12 site, subject to the provisions of this section, in order to
13 better inform and educate the public about the Vietnam
14 Veterans Memorial.

15 “(2) The education center may be located above
16 ground or underground, as determined through the ap-
17 proval process set forth under chapter 89 of title 40,
18 United States Code, and this section.

19 “(3) As used in this section, the term ‘education cen-
20 ter’ or ‘center’ means a building or other structure ap-
21 proved in accordance with chapter 89 of title 40, United
22 States Code, and this section.

23 “(b) **APPLICABLE LAW.**—(1) Chapter 89 of title 40,
24 United States Code, shall apply to the education center,
25 and the center shall be considered a commemorative work
26 for the purposes of that Act, except that—

1 “(A) final approval of the education center shall
2 not be withheld; and

3 ~~“(B) the provisions of section 8908(b)(1) of~~
4 ~~title 40, United States Code, requiring approval by~~
5 ~~law for the location of a commemorative work within~~
6 ~~Area I, shall not apply.~~

7 ~~“(2) The size of the education center shall be limited~~
8 ~~to the minimum necessary—~~

9 ~~“(A) to provide for appropriate educational and~~
10 ~~interpretive functions; and~~

11 ~~“(B) to prevent interference or encroachment~~
12 ~~on the Vietnam Veterans Memorial and to protect~~
13 ~~open space and visual sightlines on the Mall.~~

14 ~~“(3) The education center shall be constructed and~~
15 ~~landscaped in a manner harmonious with the site of the~~
16 ~~Vietnam Veterans Memorial, consistent with the special~~
17 ~~nature and sanctity of the Mall.~~

18 ~~“(c) OPERATION AND MAINTENANCE.—(1) The edu-~~
19 ~~cation center shall be operated and maintained by the Sec-~~
20 ~~retary of the Interior.~~

21 ~~“(2) This subsection does not waive section 8906(b)~~
22 ~~of title 40, United States Code (requiring the donation of~~
23 ~~funds to offset the costs of perpetual maintenance and~~
24 ~~preservation of the commemorative work).~~

1 “(d) FUNDING.—All funds required for the planning,
 2 design, and construction of the education center shall be
 3 provided by the Vietnam Veterans Memorial Fund, Inc.
 4 No Federal funds shall be used for the planning, design,
 5 or construction of the center.”.

6 ***TITLE I—VIETNAM VETERANS***
 7 ***MEMORIAL EDUCATION CENTER***

8 ***SEC. 101. EDUCATION CENTER.***

9 *Public Law 96–297, as amended (16 U.S.C. 431 note),*
 10 *is further amended by adding at the end thereof the fol-*
 11 *lowing:*

12 “*SEC. 6. EDUCATION CENTER.*

13 “(a) *AUTHORIZATION.—*

14 “(1) *The Vietnam Veterans Memorial Fund, Inc.,*
 15 *is authorized to construct an education center at or*
 16 *near the Vietnam Veterans Memorial site, subject to*
 17 *the provisions of this section, in order to better inform*
 18 *and educate the public about the Vietnam Veterans*
 19 *Memorial.*

20 “(2) *The education center may be located above*
 21 *ground or underground, as determined through the*
 22 *approval process set forth under the Commemorative*
 23 *Works Act and this Act.*

24 “(3) *As used in this section, the term ‘education*
 25 *center’ or ‘center’ means a building or other structure*
 26 *approved in accordance with chapter 89 of title 40,*

1 *United States Code (commonly referred to as the*
2 *‘Commemorative Works Act’) and this section.*

3 “(b) *APPLICATION OF COMMEMORATIVE WORKS*
4 *ACT.—*

5 “(1) *The Commemorative Works Act (chapter 89*
6 *of title 40, United States Code) shall apply to the*
7 *education center, and the center shall be considered a*
8 *commemorative work for the purposes of that Act, ex-*
9 *cept that—*

10 “(A) *final approval of the education center*
11 *shall not be withheld; and*

12 “(B) *the provisions of section 8908(b) of*
13 *title 40, United States Code, requiring approval*
14 *by law for the location of a commemorative work*
15 *within Area I, shall not apply.*

16 “(2) *Notwithstanding section 8908(c) of title 40,*
17 *United States Code (as added by the Commemorative*
18 *Works Clarification and Revision Act of 2003), the*
19 *designation of the Reserve shall not preclude the ap-*
20 *proval of a site for the education center within such*
21 *area.*

22 “(3) *Section 8905(b)(5) of title 40, United States*
23 *Code (as added by the Commemorative Works Clari-*
24 *fication and Revision Act of 2003), prohibiting the*
25 *authorization of a commemorative work primarily de-*

1 *signed as a museum on lands under the jurisdiction*
 2 *of the Secretary of the Interior within Area I or East*
 3 *Potomac Park, shall not be construed to deny ap-*
 4 *proval of the education center.*

5 *“(4) The size of the education center shall be lim-*
 6 *ited to the minimum necessary—*

7 *“(A) to provide for appropriate educational*
 8 *and interpretive functions; and*

9 *“(B) to prevent interference or encroach-*
 10 *ment on the Vietnam Veterans Memorial and to*
 11 *protect open space and visual sightlines on the*
 12 *Mall.*

13 *“(5) The education center shall be constructed*
 14 *and landscaped in a manner harmonious with the*
 15 *site of the Vietnam Veterans Memorial, consistent*
 16 *with the special nature and sanctity of the Mall.*

17 *“(c) OPERATION AND MAINTENANCE.—*

18 *“(1) The education center shall be operated and*
 19 *maintained by the Secretary of the Interior.*

20 *“(2) This subsection does not waive section*
 21 *8906(b) of title 40, United States Code (as amended*
 22 *by the Commemorative Works Clarification and Revi-*
 23 *sion Act of 2003), requiring the donation of funds to*
 24 *offset the costs of perpetual maintenance and preser-*
 25 *vation of the commemorative work.*

1 “(d) *FUNDING.*—All funds required for the planning,
 2 design and construction of the education center shall be pro-
 3 vided by the Vietnam Veterans Memorial Fund, Inc. No
 4 Federal funds shall be used for the planning, design, or con-
 5 struction of the center.”.

6 ***TITLE II—COMMEMORATIVE*** 7 ***WORKS ACT AMENDMENTS***

8 ***SEC. 201. SHORT TITLE.***

9 This title may be cited as the “Commemorative Works
 10 Clarification and Revision Act of 2003”.

11 ***SEC. 202. ESTABLISHMENT OF RESERVE.***

12 Section 8908 of title 40, United States Code, is amend-
 13 ed by adding at the end the following:

14 “(c) *RESERVE.*—After the date of enactment of the
 15 Commemorative Works Clarification and Revision Act of
 16 2003, no commemorative work shall be located within the
 17 Reserve.”.

18 ***SEC. 203. CLARIFYING AND CONFORMING AMENDMENTS.***

19 (a) *PURPOSES.*—Section 8901(2) of title 40, United
 20 States Code, is amended by striking “Columbia;” and in-
 21 serting “Columbia and its environs, and to encourage the
 22 location of commemorative works within the urban fabric
 23 of the District of Columbia;”.

24 (b) *DEFINITIONS.*—Section 8902(a) of title 40, United
 25 States Code, is amended to read as follows:

1 “(a) *DEFINITIONS.*—*In this chapter, the following*
 2 *definitions apply—*

3 “(1) *the term ‘commemorative work’ means any*
 4 *statue, monument, sculpture, memorial, plaque, in-*
 5 *scription, or other structure or landscape feature, in-*
 6 *cluding a garden or memorial grove, designed to per-*
 7 *petuate in a permanent manner the memory of an in-*
 8 *dividual, group, event or other significant element of*
 9 *American history, except that the term does not in-*
 10 *clude any such item which is located within the inte-*
 11 *rior of a structure or a structure which is primarily*
 12 *used for other purposes;*

13 “(2) *the term ‘sponsor’ means a public agency,*
 14 *and an individual, group or organization that is de-*
 15 *scribed in section 501(c)(3) of the Internal Revenue*
 16 *Code of 1986 and exempt from tax under section*
 17 *501(a) of such Code, and which is authorized by Con-*
 18 *gress to establish a commemorative work in the Dis-*
 19 *trict of Columbia and its environs;*

20 “(3) *the term ‘Reserve’ means the great cross-axis*
 21 *of the Mall, which generally extends from the United*
 22 *States Capitol to the Lincoln Memorial, and from the*
 23 *White House to the Jefferson Memorial, as depicted*
 24 *on the map referenced in paragraph (4); and*

1 “(4) the term ‘the District of Columbia and its
2 environs’ means those lands and properties adminis-
3 tered by the National Park Service and the General
4 Services Administration located in the Reserve, Area
5 I, and Area II as depicted on the map entitled ‘Com-
6 memorative Areas Washington, DC and Environs’,
7 numbered 869/86501 B, and dated June 24, 2003.”.

8 (c) *AUTHORIZATION*.—Section 8903 of title 40, *United*
9 *States Code*, is amended as follows:

10 (1) *In subsection (b)*—

11 (A) *by striking “work commemorating a*
12 *lesser conflict” and inserting “work solely com-*
13 *memorating a limited military engagement”;*

14 (B) *by striking “the event.” and inserting*
15 *“such war or conflict.”.*

16 (2) *In subsection (d)*—

17 (A) *by striking “CONSULTATION WITH NA-*
18 *TIONAL CAPITAL MEMORIAL COMMISSION.—”*
19 *and inserting “CONSULTATION WITH NATIONAL*
20 *CAPITAL MEMORIAL ADVISORY COMMISSION.—”;*

21 (B) *by striking “House Administration”*
22 *and inserting “Resources”; and*

23 (C) *by inserting “Advisory” before “Com-*
24 *mission”; and*

25 (3) *Subsection (e) is amended to read as follows:*

1 “(e) *EXPIRATION OF LEGISLATIVE AUTHORITY.*—Any
 2 *legislative authority for a commemorative work shall expire*
 3 *at the end of the seven-year period beginning on the date*
 4 *of the enactment of such authority, or at the end of the*
 5 *seven-year period beginning on the date of the enactment*
 6 *of legislative authority to locate the commemorative work*
 7 *within Area I, if such additional authority has been grant-*
 8 *ed, unless—*

9 “(1) *the Secretary of the Interior or the Admin-*
 10 *istrator of General Services (as appropriate) has*
 11 *issued a construction permit for the commemorative*
 12 *work during that period; or*

13 “(2) *the Secretary or the Administrator (as ap-*
 14 *propriate), in consultation with the National Capital*
 15 *Memorial Advisory Commission, has made a deter-*
 16 *mination that—*

17 “(A) *final design approvals have been ob-*
 18 *tained from the National Capital Planning Com-*
 19 *mission and the Commission of Fine Arts; and*

20 “(B) *75 percent of the amount estimated to*
 21 *be required to complete the memorial has been*
 22 *raised.*

23 *If these two conditions have been met, the Secretary or the*
 24 *Administrator (as appropriate) may extend the seven-year*
 25 *legislative authority for a period not to exceed three years*

1 *from the date of expiration. Upon expiration of the legisla-*
 2 *tive authority, any previous site and design approvals shall*
 3 *also expire.”.*

4 *(d) NATIONAL CAPITAL MEMORIAL ADVISORY COMMIS-*
 5 *SION.—Section 8904 of title 40, United States Code, is*
 6 *amended as follows:*

7 *(1) By striking “§ 8904. National Capital Me-*
 8 *memorial Commission” and inserting “§ 8904. National*
 9 *Capital Memorial Advisory Commission”.*

10 *(2) In subsection (a) by striking “There is a Na-*
 11 *tional Capital Memorial Commission. The member-*
 12 *ship of the Commission consists of—” and inserting*
 13 *“The National Capital Memorial Advisory Commis-*
 14 *sion is hereby established and shall include the fol-*
 15 *lowing members (or their designees):”.*

16 *(3) In subsection (c)—*

17 *(A) by inserting “Advisory” before “Com-*
 18 *mission”; and*

19 *(B) by striking “Services” and inserting*
 20 *“Services (as appropriate)”.*

21 *(4) In subsection (d) by inserting “Advisory” be-*
 22 *fore “Commission”.*

23 *(e) SITE AND DESIGN APPROVAL.—Section 8905 of*
 24 *title 40, United States Code, is amended as follows:*

25 *(1) In subsection (a)—*

1 (A) by striking “person” and inserting
2 “sponsor” each place it appears;

3 (B) by inserting “Advisory” before “Com-
4 mission” in paragraph (1); and

5 (C) by striking “designs” and inserting “de-
6 sign concepts”.

7 (2) In subsection (b)—

8 (A) by striking “and Administrator” and
9 inserting “or Administrator (as appropriate)”;
10 and

11 (B) in paragraph (2)(B), by striking, “open
12 space and existing public use.” and inserting
13 “open space, existing public use, and cultural
14 and natural resources.”.

15 (f) *CRITERIA FOR ISSUANCE OF CONSTRUCTION PER-*
16 *MIT.*—Section 8906 of title 40, United States Code, is
17 amended as follows:

18 (1) In subsection (a)(3) and (a)(4) by striking
19 “person” and inserting “sponsor”.

20 (2) By amending subsection (b) to read as fol-
21 lows:

22 “(b) *DONATION FOR PERPETUAL MAINTENANCE AND*
23 *PRESERVATION.*—

24 “(1) In addition to the criteria described above
25 in subsection (a), no construction permit shall be

1 *issued unless the sponsor authorized to construct the*
2 *commemorative work has donated an amount equal to*
3 *10 percent of the total estimated cost of construction*
4 *to offset the costs of perpetual maintenance and pres-*
5 *ervation of the commemorative work. All such*
6 *amounts shall be available for those purposes pursu-*
7 *ant to the provisions of this subsection. The provisions*
8 *of this subsection shall not apply in instances when*
9 *the commemorative work is constructed by a Depart-*
10 *ment or agency of the Federal Government and less*
11 *than 50 percent of the funding for such work is pro-*
12 *vided by private sources.*

13 “(2) Notwithstanding any other provision of law,
14 *money on deposit in the Treasury on the date of en-*
15 *actment of this subsection provided by a sponsor for*
16 *maintenance pursuant to this subsection shall be cred-*
17 *ited to a separate account in the Treasury.*

18 “(3) Money provided by a sponsor pursuant to
19 *the provisions of this subsection after the date of en-*
20 *actment of the Commemorative Works Clarification*
21 *and Revision Act of 2003 shall be credited to a sepa-*
22 *rate account with the National Park Foundation.*

23 “(4) Upon request, the Secretary of the Treasury
24 *or the National Park Foundation shall make all or a*
25 *portion of such moneys available to the Secretary or*

1 *the Administrator (as appropriate) for the mainte-*
 2 *nance of a commemorative work. Under no cir-*
 3 *cumstances may the Secretary or Administrator re-*
 4 *quest funds from a separate account exceeding the*
 5 *total money in the account established under para-*
 6 *graph (2) or (3). The Secretary and the Adminis-*
 7 *trator shall maintain an inventory of funds available*
 8 *for such purposes. Funds provided under this para-*
 9 *graph shall be available without further appropria-*
 10 *tion and shall remain available until expended.”.*

11 *(g) AREAS I AND II.—Section 8908(a) of title 40,*
 12 *United States Code, is amended—*

13 *(1) by striking “Secretary of the Interior and*
 14 *Administrator of General Services” and inserting*
 15 *“Secretary of the Interior or the Administrator of*
 16 *General Services (as appropriate)”;* and

17 *(2) by striking “numbered 869/86581, and dated*
 18 *May 1, 1986.” and inserting “entitled ‘Commemora-*
 19 *tive Areas Washington, DC and Environs’, numbered*
 20 *869/86501 B, and dated June 24, 2003.”.*

21 **SEC. 204. SITE AND DESIGN CRITERIA.**

22 *Section 8905 of title 40, United States Code, is further*
 23 *amended by adding the following new paragraphs to sub-*
 24 *section (b):*

1 “(5) *MUSEUMS*.—No commemorative work pri-
 2 marily designed as a museum may be located on
 3 lands under the jurisdiction of the Secretary in Area
 4 I or in East Potomac Park as depicted on the map
 5 referenced in section 8902(4).

6 “(6) *SITE-SPECIFIC GUIDELINES*.—The National
 7 Capital Planning Commission and the Commission of
 8 Fine Arts may develop such criteria or guidelines spe-
 9 cific to each site that are mutually agreed upon to en-
 10 sure that the design of the commemorative work car-
 11 ries out the purposes of this Act.

12 “(7) *DONOR CONTRIBUTIONS*.—Donor contribu-
 13 tions to commemorative works shall not be acknowl-
 14 edged in any manner as part of the commemorative
 15 work or its site.”.

16 **SEC. 205. NO EFFECT ON PREVIOUSLY APPROVED SITES.**

17 Nothing in this title shall apply to a commemorative
 18 work for which a site was approved in accordance with the
 19 Commemorative Works Act prior to the date of enactment
 20 of this title.

21 **SEC. 206. NATIONAL PARK SERVICE REPORTS.**

22 Within six months after the date of enactment of this
 23 title, the Secretary of the Interior, in consultation with the
 24 National Capital Planning Commission and the Commis-
 25 sion of Fine Arts, shall submit to the Committee on Energy

1 *and Natural Resources of the United States Senate, and*
2 *to the Committee on Resources of the United States House*
3 *of Representatives reports setting forth plans for the fol-*
4 *lowing:*

5 (1) *To relocate the National Park Service's stable*
6 *and maintenance facilities that are within the Re-*
7 *serve as expeditiously as possible.*

8 (2) *To relocate, redesign or otherwise alter the*
9 *concession facilities that are within the Reserve to the*
10 *extent necessary to make them compatible with the*
11 *Reserve's character.*

12 (3) *To limit the sale or distribution of permitted*
13 *merchandise to those areas where such activities are*
14 *less intrusive upon the Reserve, and to relocate any*
15 *existing sale or distribution structures that would oth-*
16 *erwise be inconsistent with the plan.*

17 (4) *To make other appropriate changes, if any,*
18 *to protect the character of the Reserve.*

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